

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

TRUEPOSITION, INC.,

Plaintiff,

v.

LM ERICSSON TELEPHONE COMPANY
(TELEFONAKTIEBOLAGET LM ERICSSON),
QUALCOMM, INC.,
ALCATEL-LUCENT USA, INC.,
EUROPEAN TELECOMMUNICATIONS
STANDARDS INSTITUTE and
THIRD GENERATION PARTNERSHIP
PROJECT a/k/a 3GPP,

Defendants.

CIVIL ACTION

No. 11-4574

ORDER

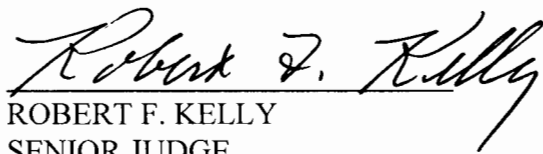
AND NOW, this *25th* day of October, 2013, upon consideration of the Motion of Defendant Third Generation Partnership Project (“3GPP”) For Reconsideration And, In The Alternative, For Certification Of An Interlocutory Appeal (Doc. No. 218), and the Response In Opposition filed by TruePosition, Inc. (“TruePosition”) (Doc. No. 219), it is hereby **ORDERED** that the Motion is **DENIED**.

The portion of 3GPP’s Motion requesting reconsideration is **DENIED** because reconsideration is only granted in three situations: (1) an intervening change in the controlling law; (2) the availability of new evidence that was not available previously; or (3) the need to correct a clear error of law or fact to prevent manifest injustice. See Max’s Seafood Café v. Quinteros, 176 F.3d 669, 677 (3d Cir. 1999) (citing N. River Ins. Co. v. CIGNA Reinsurance Co., 52 F.3d 1194, 1218 (3d Cir. 1995)). In this case, there is no intervening change in

controlling law. 3GPP has submitted no new evidence. Pertaining to our decision to grant TruePosition's Motion for Judgment on the Pleadings, we find that there is no need to correct a clear error or to prevent manifest injustice. Thus, we will not grant a motion for reconsideration in these circumstances.

Arguing in the alternative, 3GPP moves for certification of an interlocutory appeal. Pursuant to 28 U.S.C. § 1292(b), a District Court must certify that : (1) that the order involves a controlling question of law; (2) that there is substantial ground for difference of opinion; and (3) that an immediate appeal from the order may materially advance the ultimate termination of the litigation. 28 U.S.C. § 1292(b). We are of the opinion that the granting of TruePosition's Motion for Judgment on the Pleadings did not involve a controlling question of law and an immediate appeal from the Court's October 9, 2013 Order (Doc. No. 210) will not materially advance the ultimate termination of the litigation. See id. As such, 3GPP's request for certification of an interlocutory appeal is **DENIED**.

BY THE COURT


ROBERT F. KELLY
SENIOR JUDGE